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2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 JEFFREY WELLER,

7 Petitioner,

v.

8 RONALD HAYNES,

9 Respondent.

Case No. 3:20-cv-05861-RAJ-TLF

ORDER WITHDRAWING AND
STRIKING DKT. 34, ORDER FOR
ORAL ARGUMENT AND
SUPPLEMENTAL BRIEFING, AND
ORDER ON MOTION TO STRIKE

10 SANDRA WELLER,

11 Petitioner,

v.

13 DEBORAH WOFFORD,

14 Respondent.

Case No. 3:20-cv-5862-RAJ-TLF

16 These are federal habeas actions filed under 28 U.S.C. § 2254. *Weller v.*

17 *Haynes*, No. 20-5681-RAJ-TLF (“Jeffrey Weller Matter”), Dkt. 3; *Weller v. Wofford*, No.
18 20-5862-RAJ-TLF (“Sandra Weller Matter”), Dkt. 3.

19 Before the court is a motion to strike the respondent’s objections, filed by each
20 petitioner. Dkt. 36. Petitioners ask the Court to strike Dkt. 35, filed by Ronald Haynes
21 and Deborah Wofford, the respondents.

22 Under Rule 10 of the Rules Governing Section 2254 Federal Habeas Corpus
23 Cases in the United States District Courts, the United States Magistrate Judge may
24 ORDER WITHDRAWING AND STRIKING DKT. 34,
25 ORDER FOR ORAL ARGUMENT AND
SUPPLEMENTAL BRIEFING, AND ORDER ON
MOTION TO STRIKE - 1

1 conduct proceedings except for an order under rule 4, disposing of the petition. When
2 this Court issued a proposed report and recommendation, it was not an order under
3 Rule 4 that would dispose of the petition. The Court was attempting to give the parties
4 an opportunity to provide feedback on a draft of a report and recommendation. This was
5 not intended to be the final report and recommendation, but it is understandable that the
6 respondents believed it appropriate to preserve the record by filing objections.

7 To remove this understandable confusion, the Court hereby withdraws and
8 strikes Dkt. 34. The Court also grants the petitioners' motion to strike Dkt. 35 — without
9 prejudice to respondents' right to re-raise their objections upon the issuance of a final
10 report and recommendation — because when the Court withdraws and strikes Dkt. 34,
11 it renders the respondents' objections moot. Therefore, the Court **ORDERS** as follows:

12 (a) The Clerk of the Court is directed to schedule oral argument on this matter
13 and each party will be allocated 20 minutes.

14 (b) In preparation for oral argument, each party will be permitted to file a
15 supplemental brief on or before January 20, 2023, limited to not more than
16 25-pages, addressing the impact of *Shinn v. Ramirez*, 142 S.Ct. 1718
17 (2022) on this matter.

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19 Dated this 11th day of January, 2023.

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22 Theresa L. Fricke
23 United States Magistrate Judge
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ORDER WITHDRAWING AND STRIKING DKT. 34,
ORDER FOR ORAL ARGUMENT AND
SUPPLEMENTAL BRIEFING, AND ORDER ON
MOTION TO STRIKE - 2